

FILED

NOT FOR PUBLICATION

OCT 2 2007

UNITED STATES COURT OF APPEALS

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

FOR THE NINTH CIRCUIT

REFUGIO VEGA-APARICIO; VELMA
VEGA,

Petitioners,

v.

PETER D. KEISLER,** Attorney General,

Respondent.

No. 05-77391

Agency Nos. A96-357-070
A96-357-071

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted September 24, 2007***

Before: CANBY, TASHIMA, and RAWLINSON, Circuit Judges.

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** Peter D. Keisler is substituted for his predecessor, Alberto R. Gonzales, as Acting Attorney General of the United States, pursuant to Fed. R. App. P. 43(c)(2).

*** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Refugio Vega-Aparicio and his wife Velma Vega, natives and citizens of Mexico, petition pro se for review of the Board of Immigration Appeals' ("BIA") order denying their motion to reopen removal proceedings. We have jurisdiction under 8 U.S.C. § 1252. We deny the petition for review.

In their opening brief, Petitioners fail to address, and therefore have waived any challenge to, the BIA's determination that their motion to reopen was filed out of time. *See Martinez-Serrano v. INS*, 94 F.3d 1256, 1259-60 (9th Cir. 1996) (holding that issues not specifically raised and argued in a party's opening brief are waived).

We do not consider any challenge to the BIA's February 28, 2005 order upholding an immigration judge's denial of cancellation of removal, because that decision was the subject of a previous petition for review.

PETITION FOR REVIEW DENIED.